

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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United States of America, ex rel Darlene C.  
Sammarco,

Civil No. 09-0880 (JRT/JJK)

Plaintiff,

v.

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

Cal Ludeman, as Minnesota Commissioner  
of Department of Human Svcs.; Jane  
Morrow, as Anoka County Court  
Administrator, Anoka County; Daniel  
Dauth, as Anoka County Social Services;  
Conservator Derrinda Mitchell, on Your  
Behalf; Attorney Linda Bogut; Dr. Michael  
Popkin, Hennepin County Medical Center  
Director of Psychiatry; Conservator Tracy  
Allen, designee for Professional  
Fiduciaries, Inc.; Karen Foy, Manager of  
Andrew Residence also known as Manager  
of Andrew Residence; Tom Mullon; Dr.  
Jonathan Uecker; and Dr. James H.  
Gilbertson, Phd;

Defendants.

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The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeffrey J. Keyes dated January 28, 2010. (Docket No. 165.) No objections were filed to that Report and Recommendation in the time period permitted. On February 26, 2010, the Court issued an order adopting the Report and Recommendation. (Docket No. 169.) On March 8, 2010, Darlene Sammarco filed a document with the Court representing that she had not received the Report and

Recommendation of January 28, 2010. (Plaintiff Relator Sammarco's Declaration and Argument Against Judgment to Dismiss for Failure to Prosecute Co-Defendants Dr. Jonathan Uecker, PFI Tracy Allen, Dr. James Gilbertson and Cal Ludeman at 1-2, Docket No. 173.) On March 15, 2010, Sammarco filed a notice of appeal to the Eighth Circuit, appealing from the Court's Order of February 26, 2010, and from the judgment of the Court, arguing that the "Order was based on an alleged January 28, 2010 Report and Recommendation by a Magistrate [Judge] Jeffrey J. Keyes, that was never received by Pro Se Relator Darlene C. Sammarco." (Notice of Appeal, Docket No. 174.)

On March 24, 2010, the Court filed an order vacating its Order of February 26, 2010, as well as the judgment in favor of defendants, and establishing April 5, 2010, as the new deadline for filing objections to the January 28, 2010 Report and Recommendation. (Docket No. 179.) The Court also directed the clerk's office to mail a copy of the Order and the Report and Recommendation to Sammarco. (*Id.* at 1.) The docket shows that the clerk's office sent the documents to Sammarco by certified mail on March 24, 2010, and that they were received at Sammarco's address on March 25, 2010. (Docket Nos. 180, 182.)

On March 26, 2010, the Court received a letter from Sammarco that stated that the "case is now before the Eighth Circuit Court of Appeals and there will be no further response to the U.S. District Court, unless the case is remanded to the lower court by the Court of Appeals." (Docket No. 181.)

No objections have been filed to the January 28, 2010 Report and Recommendation in the time period permitted in the Court's Order of March 24, 2010.

Based upon the Report and Recommendation of the Magistrate Judge, and upon all of the files, records, and proceedings herein, the Court now makes and enters the following Order.

**IT IS HEREBY ORDERED** that:

1. Defendant Andrew Residence's Motion to Dismiss (Doc. No. 41), is **GRANTED**;
2. Defendant Tom Mullan's Motion to Dismiss (Doc. No. 45 and No. 52), is **GRANTED**;
3. Defendant Jane Morrow's Motion to Dismiss (Doc. No. 56), is **GRANTED**;
4. Defendant Daniel Dauth's Motion to Dismiss (Doc. No. 111), is **GRANTED**;
5. Defendant Karen Foy's Motion to Dismiss (Doc. No. 95), is **GRANTED**;
6. Defendant Derrinda Mitchell's Motion to Dismiss Pleadings and/or for a More Definite Statement (Doc. No. 138), is **GRANTED**;
7. Plaintiff's remaining claims against Defendants Cal Ludeman, as Minnesota Commissioner of Department of Human Services, Dr. Jonathan Uecker, Dr. James H. Gilbertson, and Conservator Tracy Allen, designee for Professional Fiduciaries, Inc., are **DISMISSED WITHOUT PREJUDICE** for failure to prosecute;
8. Defendants Daniel Dauth, Andrew Residence, and Karen Foy's oral request for a sanction on Plaintiff's filing of future related cases (*See* Doc. No. 153 (noting oral

request at the January 8, 2010 hearing))), is **GRANTED** to the extent that Plaintiff be prohibited from filing future cases relating to the commitment of her daughter unless she is represented by counsel or obtains pre-authorization from a judge of this Court;

9. The remaining pending motions (Doc. Nos. 125, 127, 128, 133, 134, 142, 144, 146, and 148), are **DENIED**; and

10. This matter is **DISMISSED** in its entirety.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

DATED: April 20, 2010  
at Minneapolis, Minnesota.

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s/ John R. Tunheim  
JOHN R. TUNHEIM  
United States District Judge